

LAW OFFICE OF

MICHAEL K. BACHRACH

224 WEST 30TH STREET, SUITE 302
NEW YORK, N.Y. 10001

TEL. (212) 929-0592 • FAX. (866) 328-1630

MICHAEL K. BACHRACH*
* admitted in N.Y., MN and D.C.

<http://www.mbachlaw.com>
michael@mbachlaw.com

December 22, 2020

By ECF

The Hon. P. Kevin Castel
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

***Re: United States v. Kasine Deleston,
15 Cr. 113 (PKC)***

Dear Judge Castel:

I write to respectfully request permission to withdraw as counsel for Defendant Kasine Deleston in the above-referenced matter and for new counsel to be appointed pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, for purposes of filing a motion for compassionate release on Mr. Deleston's behalf.

On June 23, 2020, this Court appointed me to represent Mr. Deleston in relation to a motion for compassionate release that he had filed *pro se* on or about June 11, 2020 (Doc. No. 63). On July 10, 2020, at Mr. Deleston's request, I moved to withdraw Mr. Deleston's *pro se* motion for compassionate release so that he might first exhaust his administrative remedies before this Court considers his application. See Letter, dated, July 10, 2020 (Doc. No. 72). On July 13, 2020, this Court granted this request and deemed the motion withdrawn without prejudice. See Order, dated, July 13, 2020 (Doc. No. 73).

Over the past several months Mr. Deleston has exhausted his administrative remedies, compiled additional documents in support of a motion for compassionate release, and now informed me that he is ready to proceed – asking that I now file a motion for compassionate release on his behalf. Ordinarily, I would have no hesitation in doing so, however, the particular timing of this request presents significant obstacles and I do not believe I legitimately have the time to draft and advance a motion on his behalf at this moment. While I could draft one for him in about two months, he should not have to wait that long to advance these interests.

At present I have a trial scheduled to begin on January 19, 2021: United States v. Tagliaferro, 19 Cr. 472 (PAC) (SDNY), a trial that is expected to last 2-3 weeks.¹ I also have two complex appeals due in the Second Circuit Court of Appeal: United States v. Mustafa Kamel Mustafa, 19-2520 (2d Cir.) (Opening Brief on Appeal due January 15, 2021); and United States v.

¹ An unopposed motion for continuance was filed on December 7, 2020 but remains pending. As such, the parties are both required to prepare for trial in the event the motion is denied.

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Alberto Vilar, 19-2492 (L), 19-2602 (con), 19-4200 (con), 20-421 (con) (2d Cir.) (Opening Brief on Appeal due January 25, 2021). Additionally, I have a number of immediate motion deadlines and oral arguments over the next three weeks in a death-*authorized* capital case pending in the Eastern District of Virginia: United States v. Elmer Zelaya Martinez, 18 Cr. 123 (RDA) (E.D.Va.). And of course, I have my other capital and non-capital trial appointments in the Southern and Eastern Districts of New York that I will need to return to once the more immediate deadlines in the above cases have been met.

Stated simply, I am swamped, and Mr. Deleston deserves an attorney with the availability to draft and advance a motion for compassionate release for him now, not in February. If not for the particularly bad timing of his request, I would, of course, continue to represent him. But given my present unavailability, I respectfully request that new counsel be appointed.²

Accordingly, the undersigned respectfully requests permission to withdraw as counsel for Defendant Kasine Deleston and that a new attorney be appointed for him from this District's CJA Panel.

Thank you for your time and consideration.

Respectfully submitted,



Michael K. Bachrach

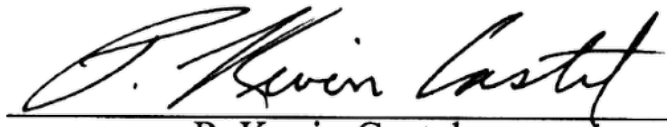
Attorney for Defendant Kasine Deleston

cc: All parties of record (by ECF)
Kasine Deleston (by mail)

Michael Bachrach's application to withdraw as counsel is granted.
John A. Diaz is appointed CJA counsel to defendant Kasine Deleston for the limited purpose of representing him on a compassionate release application.

SO ORDERED.

Dated: 12/22/2020



P. Kevin Castel
United States District Judge

cc: John A. Diaz (email)

² Over the past six weeks my schedule has also been impacted by the need to quarantine on two separate occasions due to unintended close contact with individuals suspected or confirmed to be positive of COVID-19. While I have remained healthy, this has contributed to the buildup in my present workload.